

WPCD 7-0258

2/23/08

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To Whom It May Concern:

This is a letter in response to the letter shown in Attachment 4. The intent of the response letter is to provide site knowledge, request for appeal on item 5 in the ORDER, request for date extensions, and provide a status on the items that are requested in the ORDER. The project details and background information are to support the request for additional review of item 5 in the ORDER and to provide understanding of the project time line and intent set forth at the Spring Lake Subdivision located off of Deer Run Road in Altamont, Tennessee.

Background

The property is approximately 100 acres located in Altamont, Tennessee. The property infrastructure and pond was installed in 2004. Best management practices and site stabilization measures were taken before, during and following the initial site development.

The original site consisted of a dirt access road (See Attachment 1 Pictures), low area (See Attachment 2 Pictures), and a wooded lot that was undisturbed except for what was used for hunting purposes.

The property was purchased and work began in hope to have lots that would show case the wildlife. The plans that were set forth consisted of the follow:

1. Perform maintenance to the existing road by adding gravel surface for the ease of site access and adding pipe culverts in the low areas of the road to improve the safety for the people using the existing access road.
2. Construct a small pond for the wildlife and to improve the aquatic habit.

During the planning phase, discussions were made with the local officials and plans for the property were discussed.

Planning Phase

1. The property was surveyed and divided into ten lots.
2. The plans were discussed with the county road commissioner. The discussed consisted of site layout.
3. The utility groups in the district were contacted and discussions of necessary steps for having power and water services placed on-site were reviewed.

Development Phase

1. Pipe culverts were placed at locations of low points in the roadways and fill material was added to provide cover over the pipes.
2. Necessary steps were performed to improve the access road by adding a gravel surfacing and widening the access road for utilities.
3. Provided service utilities access to the property by widening the utility access way. Land disturbance for this activity was minimized by cutting trees at the base to provide the necessary clearance. Example pictures of the cut trees are shown in Attachment 3.

Status of the Order Request

1. The Respondents shall, within 7 days of receipt of this ORDER, establish effective EPSC measures on-site such that sediment is not allowed to leave the site or enter waters of the state.

Status: Rock check dams, silt fence, rock lined outlet protection and seeding of the disturbed areas have been installed on-site. See the pictures in Attachment 3 for the established effective EPSC on-site erosion control measures.

2. The Respondents shall maintain EPSC measures until such time as all land disturbance activities at the site are complete and erosion-preventive permanent cover is established.

Status: See the pictures in Attachment 3 for the site portions that have permanent cover. There are a few small areas that the seed did not experience growth. We will continue to follow your seeding recommendations as outlined in the information available from your website until permanent vegetation is established. The EPSC measures will continue to be maintained until all of the land disturbance activities are complete. See the pictures in Attachment 3 for the established erosion-preventive permanent cover.

3. The Respondents shall, within 7 days of establishing effective EPSC measures, submit written documentation and photographic evidence indicating that these measures are in place. The Respondents shall submit this written document and photographic evidence to the Water Pollution Control Manager in the CHEFO at Suite 550 – State Office Building, 540 McCallie Avenue, Chattanooga, Tennessee 37402, and a copy to the Water Pollution Control Enforcement and Compliance (E&C) Section Manager, at 401 Church Street, 6th Floor L&C Annex, Nashville, Tennessee 37243-1534.

Status: See the pictures in Attachment 3 for the effective EPSC measures. The site photographs of the EPSC measures were previously addressed and sent to the Chattanooga Environmental Field Office, attention Steve Morrison. Please check the project files with Steve to get the actual date that this information was received.

4. The Respondents shall, within 14 days of receipt of this ORDER, submit a NOI, appropriate fee, and SWPPP that conforms to the requirements of the TNCGP. The SWPPP should be accompanied by a map that clearly shows the site boundaries and the entire planned area of disturbance. The SWPPP shall be prepared by professional engineer or landscape architect, licensed in the State of Tennessee and shall be submitted to the CHEFO at the address shown in item 3.

Status: For a typical construction project the SWPPP is typically prepared 6 months to 1 year in advance. This case is unusual in the condition that the site was developed almost four years ago. It is understood that the SWPPP is needed for a general construction permit, which is typically filed 3-6 months in advance of the actual construction. However in this case, one can see where the SWPPP would be important for the property owner(s). The individual lot owner(s) could utilize the SWPPP for guidance so they would not violate the State of Tennessee approved plans.

I request that an extension of the SWPPP be granted on the bases of the time it takes to contact the proper people and the time it takes gather the necessary information to develop SWPPP. In additional to the complexities of developing the SWPPP, also the extension should be considered on the basis that the current on-site ponded area will need to be addressed as a part of the construction activities in the SWPPP. The SWPPP can not be finalized until the appeal on the ponded area is resolved. It has been estimated that the final SWPPP can be completed within 14 days upon being notified of the final resolutions on the ponded area. Other wise the key elements within the SWPPP would be incomplete.

The SWPPP could be submitted noting that the final SWPPP is pending upon receiving the final determination of the ponded area. Under this condition, it has been estimated that the task will take 14 days upon the receipt of direction to complete the proper information and get the necessary signatures in place.

The make sure that the delay is minimized the NOI form has been filled out. The total disturbed acreage has been calculated and the appropriate fee has been determined. A draft SWPPP has being prepared and is currently waiting on direction on the ponded area before submittal. The current draft SWPPP describes the construction in two phases. The two phases are the past and future construction activities. The Phase I construction activities are those being that have already been complete. The Phase II showing a generic site plan that would apply to each of the individual ten lots. Also, a map will accompany SWPPP clearly showing the site boundaries and the planned area of disturbance.

5. The Respondents shall, within 30 days of receipt of this ORDER, submit to the division a CAP to remove the impoundment on the tributary to Rock Creek and restore the affected segment of the tributary to its original condition and remove the accumulated sediment from the wetland. The CAP shall conform to the requirements of the NOV of November, 15, 2007, and shall be prepared by a licensed professional engineer, landscape architect, or other competent professional and shall include a timetable for implementation of the proposed actions. The Respondents shall submit the CAP to the CHEFO for review and approval and copy of the CAP to the E&C Section, at the respective addresses shown in item 3. The Respondents must correct any deficiencies the division finds upon review of the CAP and the corrected CAP should be resubmitted to the division within 30 days of notification of the deficiencies.

Status:

I request an appeal of the removal of the ponded area on the basis stated below.

The farm pond was created by placing a berm across a low land area. The primary reasoning for creating the pond was created to improve the wildlife habitat. The pond is very small in size. The pond currently provides a habitat for numerous aquatic species. When the pond became filled water I released thousands of dollars of fish into the pond. If the pond has to be removed then the habitation for the fish and the variety of creatures would be destroyed. If you will please review this case taking into account the fact that pond has served as habit for the fish and other wildlife since 2004.

6. The Respondents shall, within 30 days of the receipt of written approval of the CAP, initiate the approved actions. The written approval of the CAP by the division will constitute authorization for removal of the impoundment and stream restoration and no additional ARAP coverage is required. The Respondents shall submit written notification to the division that work has begun at the time the approved actions are initiated. The Respondents shall submit the written notification to the CHEFO and a copy to the E&C Section, at the respective addresses shown in item 3.

Status: See item 5 Status.

7. The Respondents shall, within 180 days of initiating the approved CAP, but not later than August 31, 2008, complete the CAP and submit written notification of completion to the division. The Respondents shall submit the written notification to the CHEFO and shall submit a copy of the written notification to the E&C Section, at the respective addresses shown in item 3.

Status: See item 5 Status.

8. The Respondents shall pay DAMAGES to the division in amount of FOUR HUNDRED FORTY SIX DOLLARS AND FIFTY FOUR CENTS (\$446.54), payable within 30 days of the receipt of this ORDER AND ASSESSMENT.

Status:

Status: See item 5 Status.

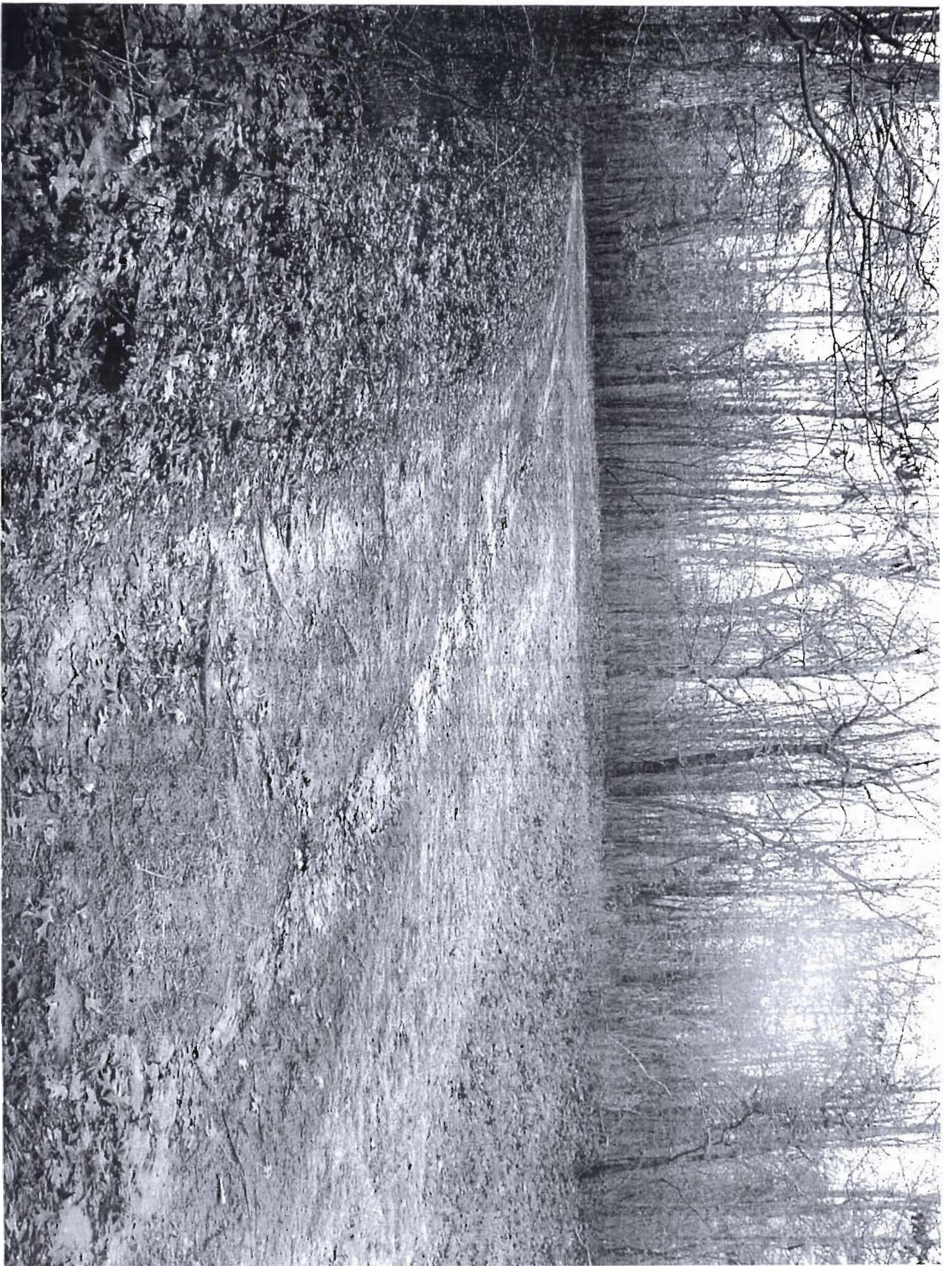
Sincerely,

Mark Clark
1406 S.E. 38th Avenue
Ocala, Florida 34471
Phone: (352)-425-8740

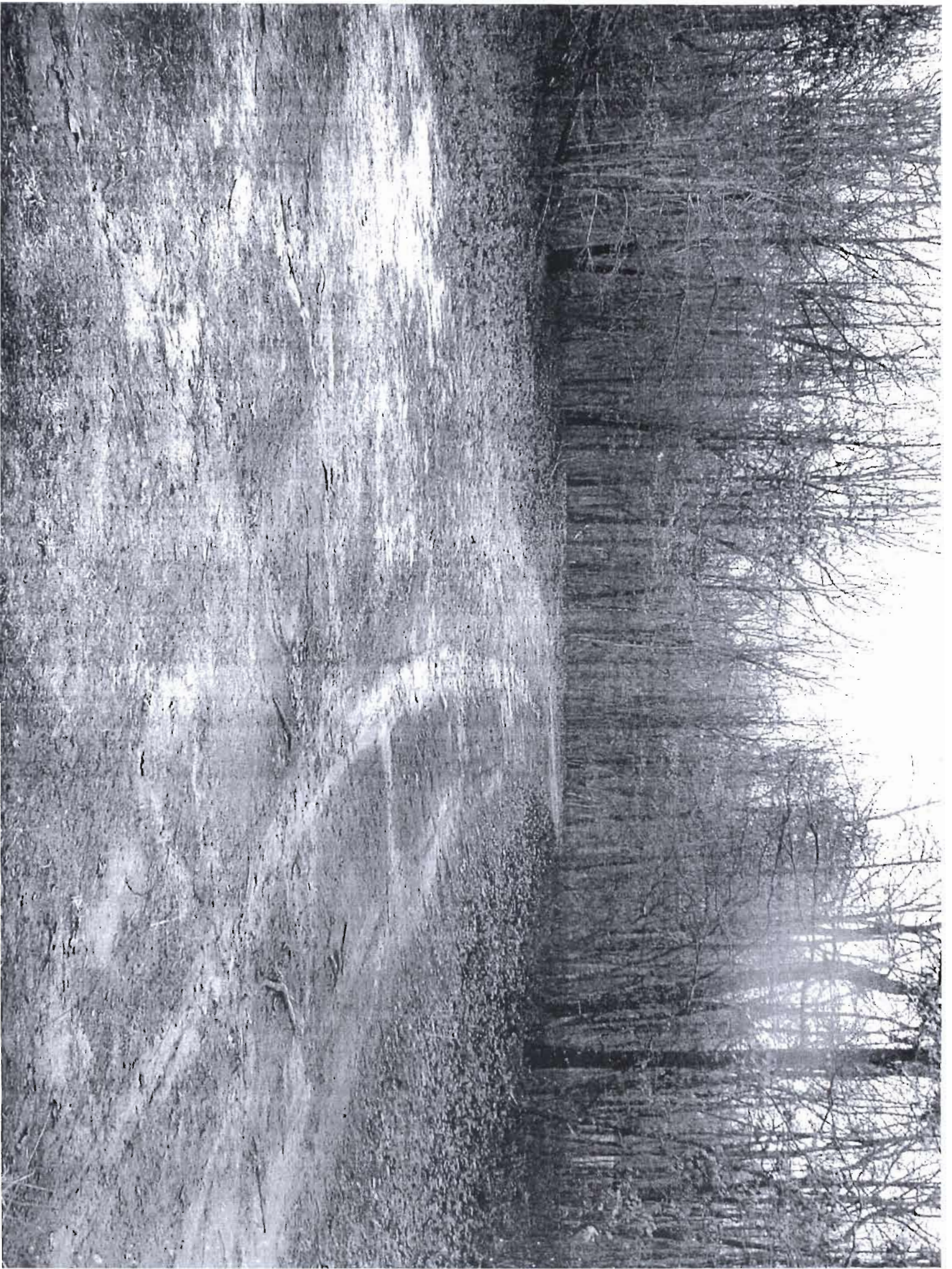
ATTACHMENT 1

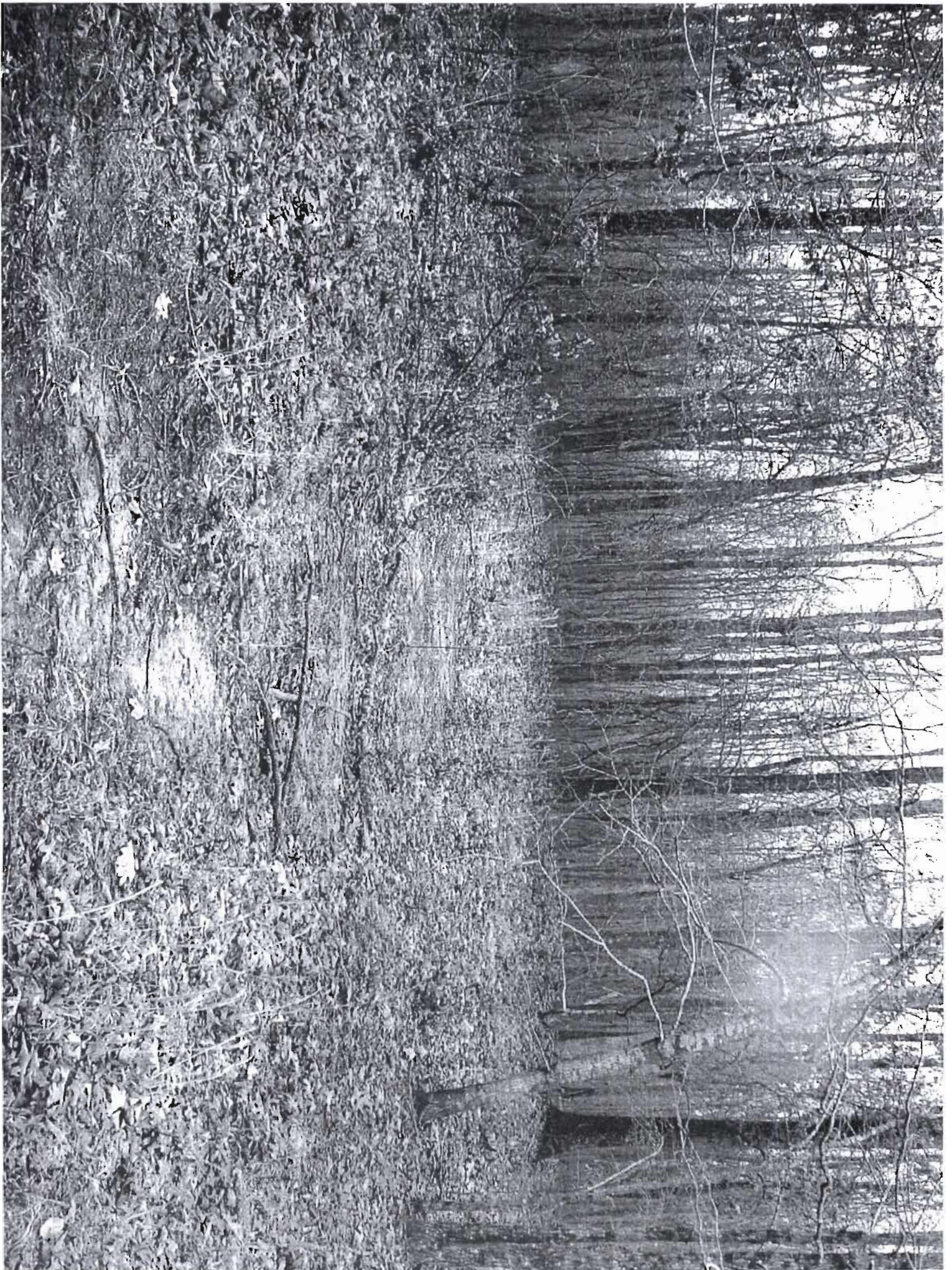








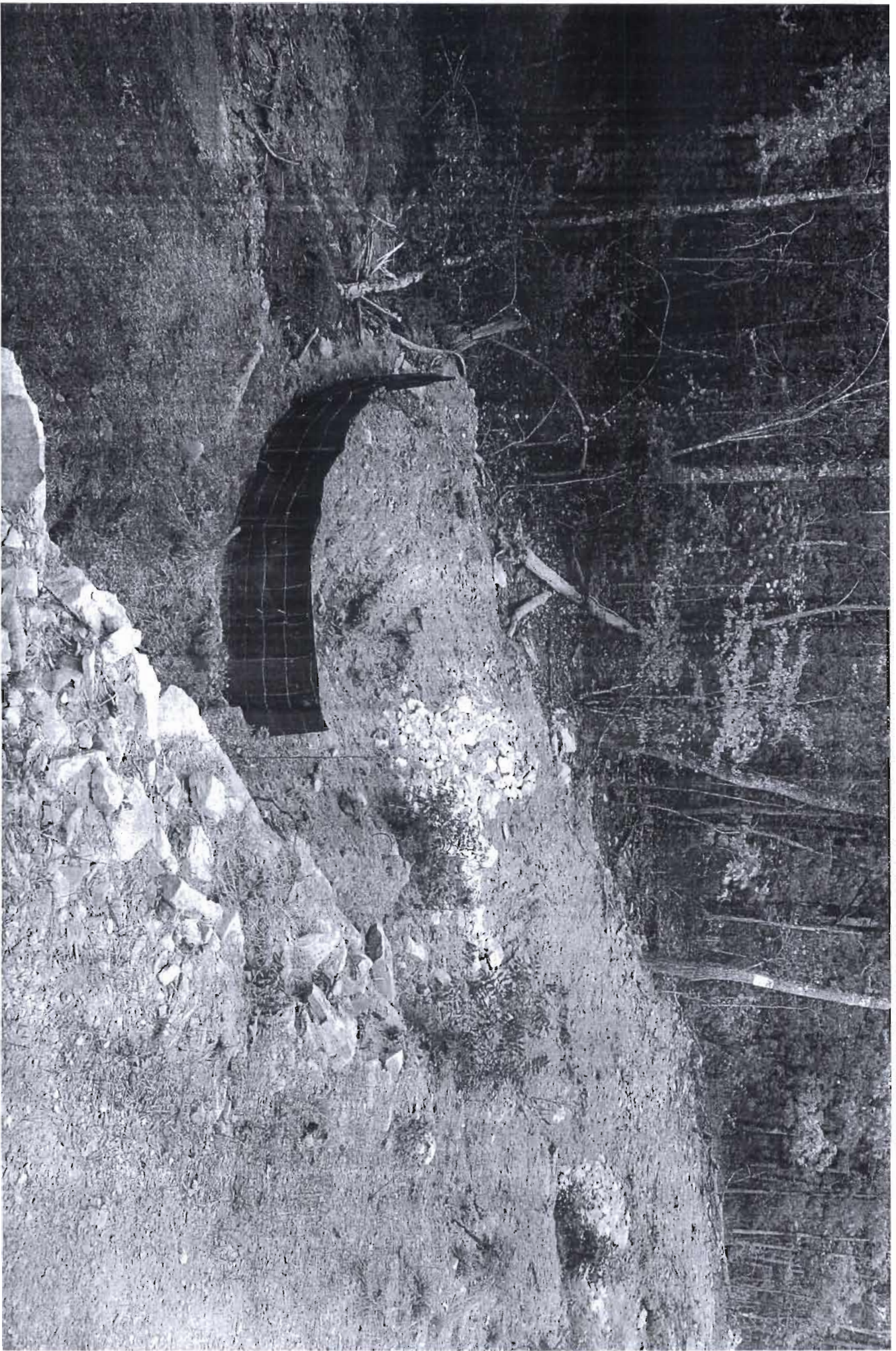




ATTACHMENT 2



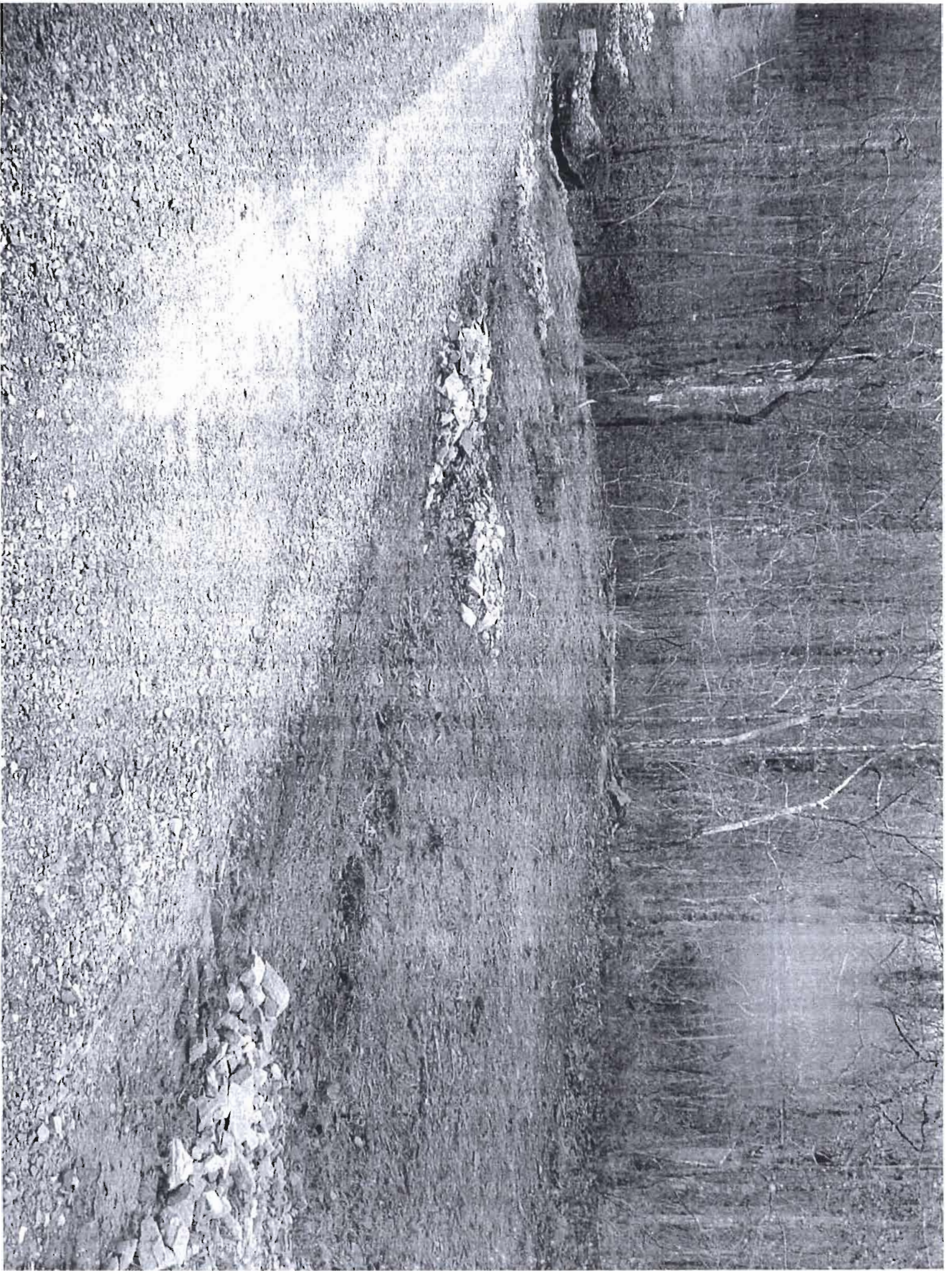




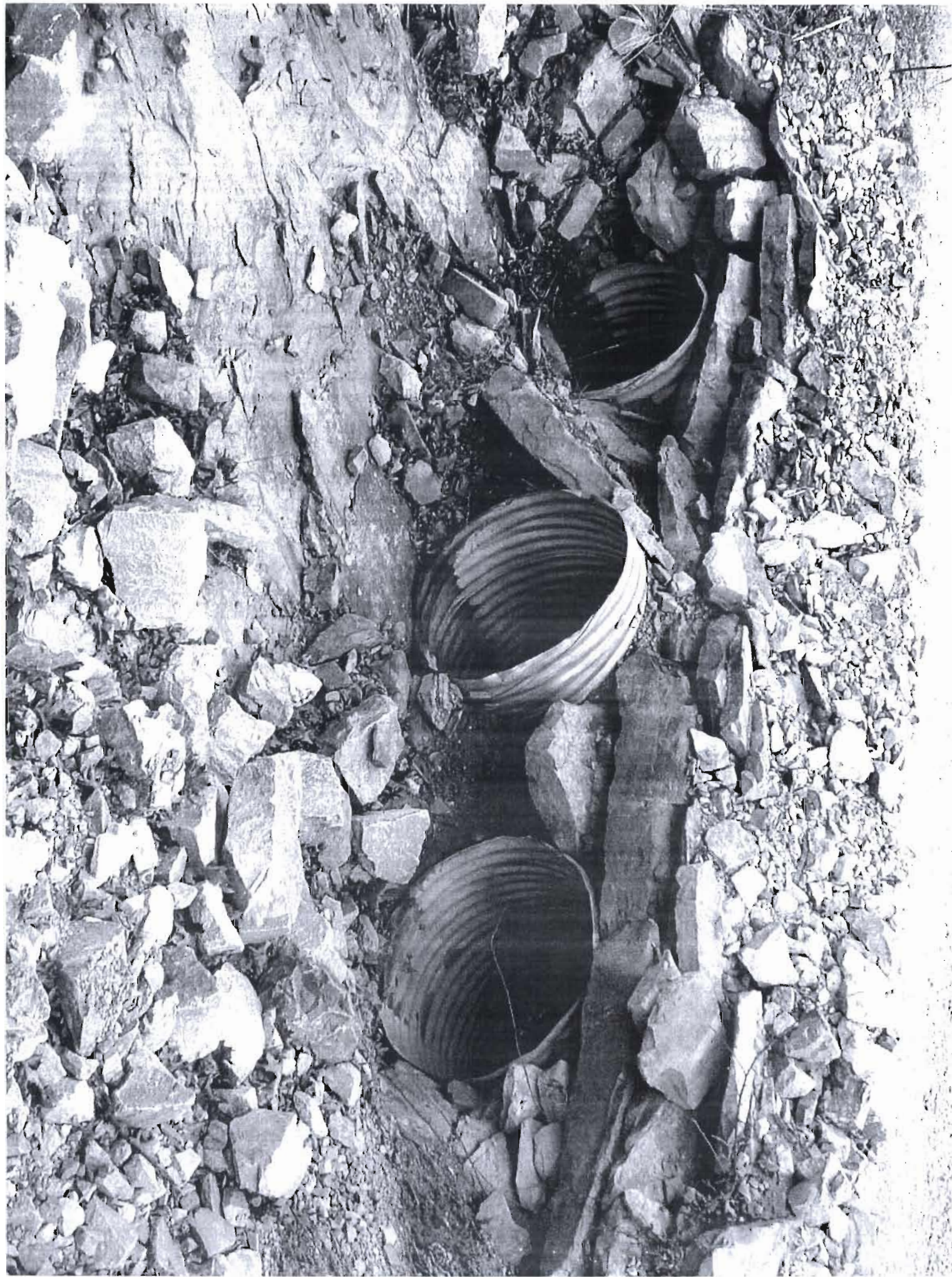
ATTACHMENT 3

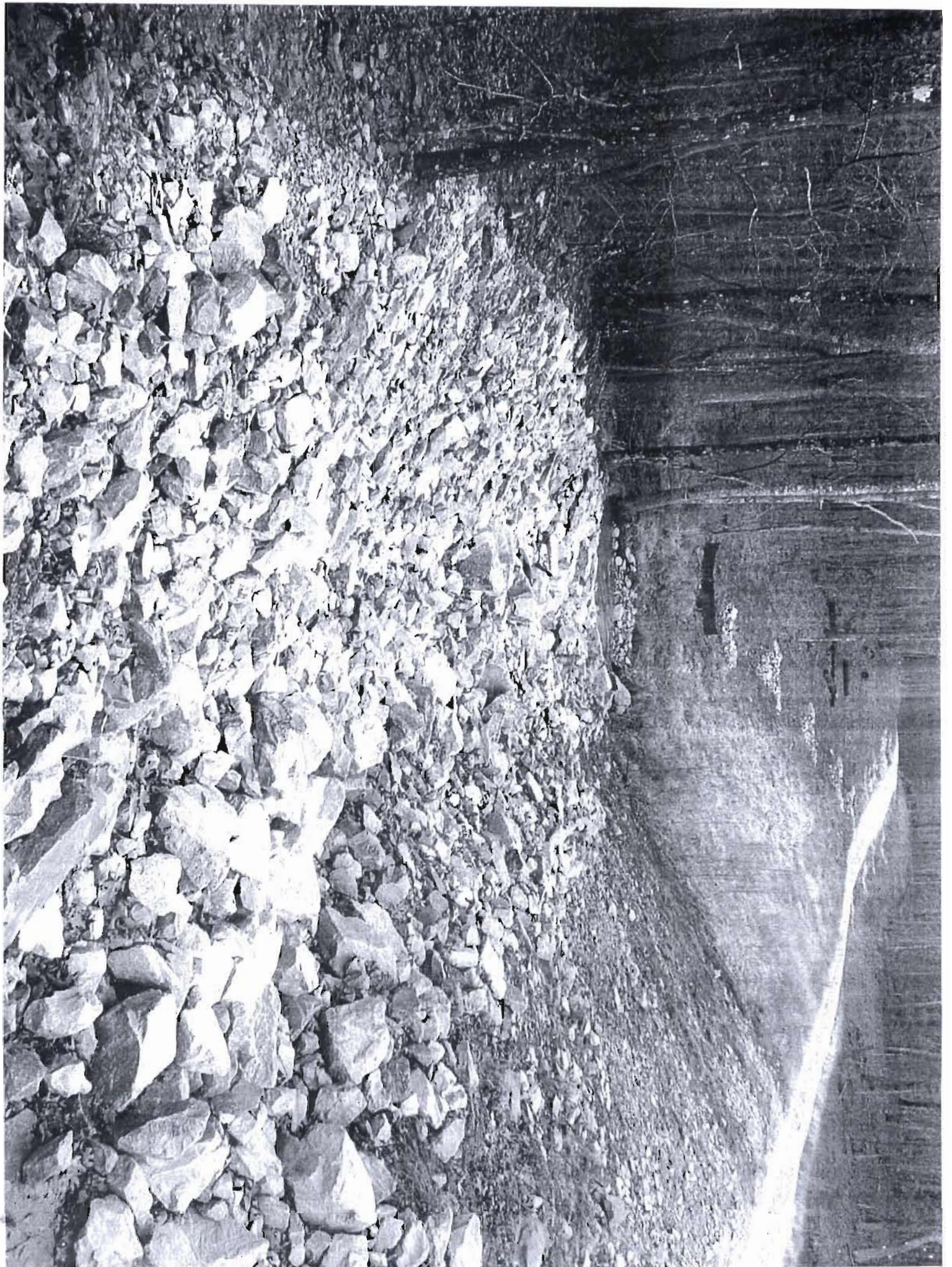






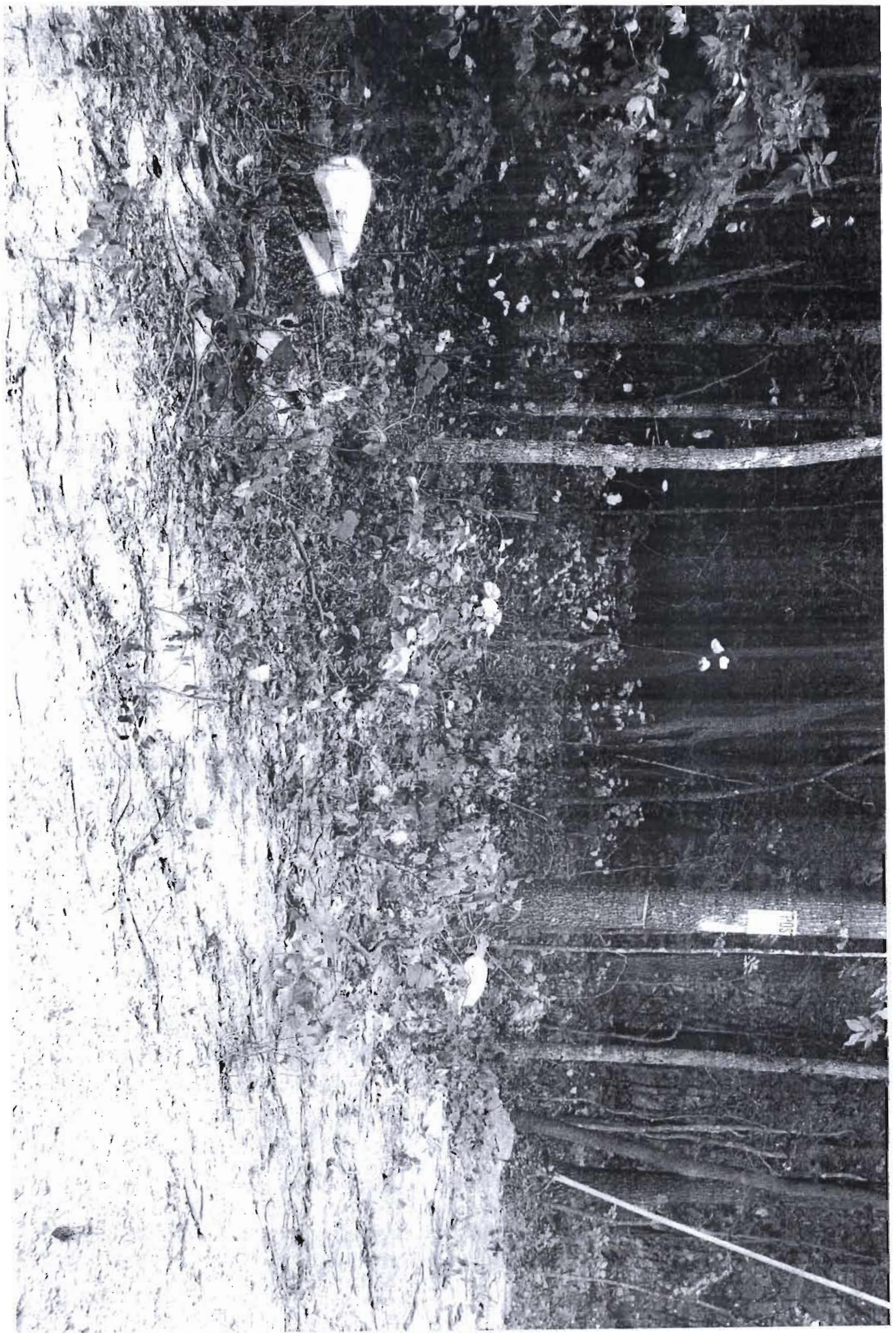


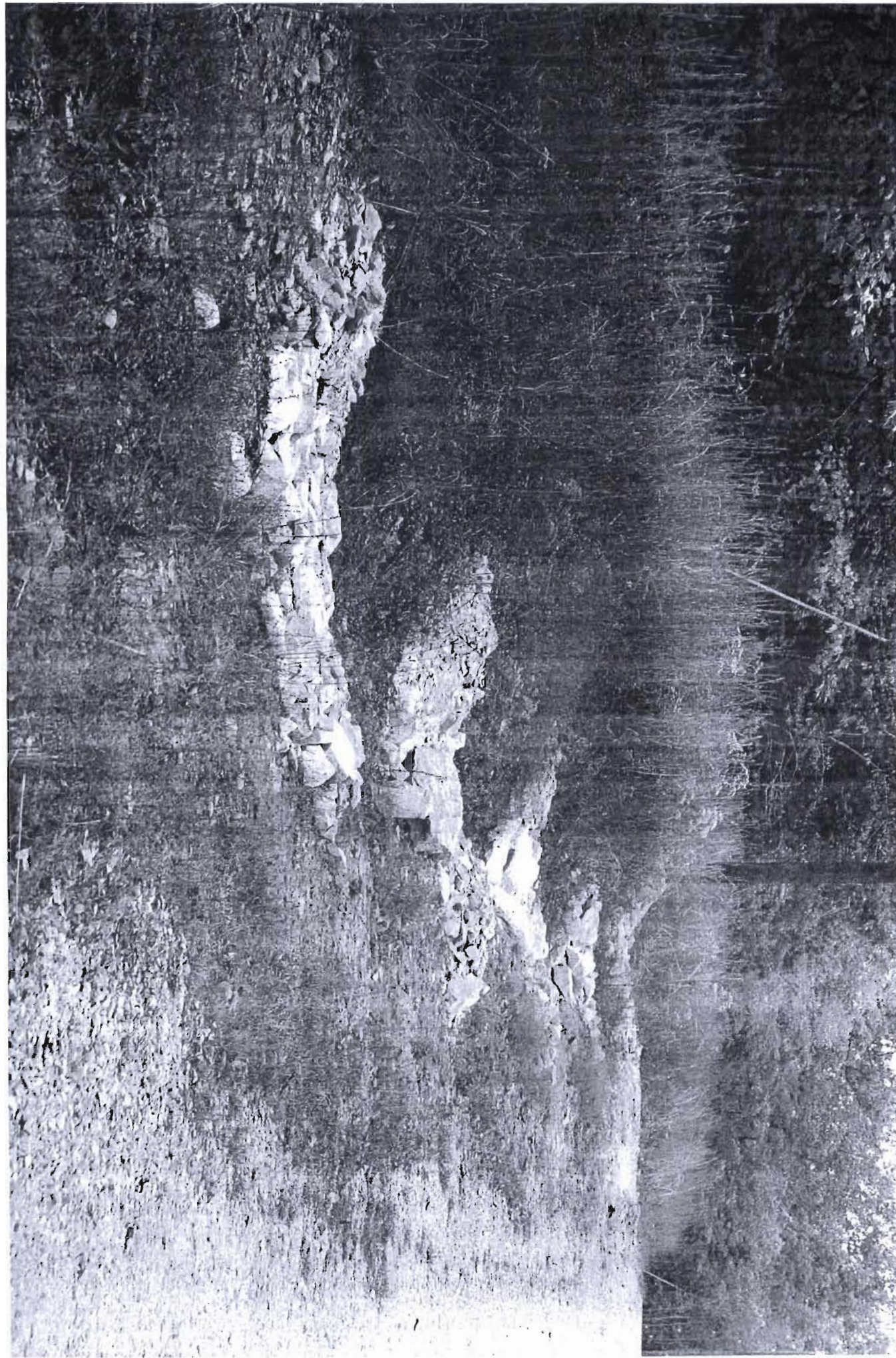




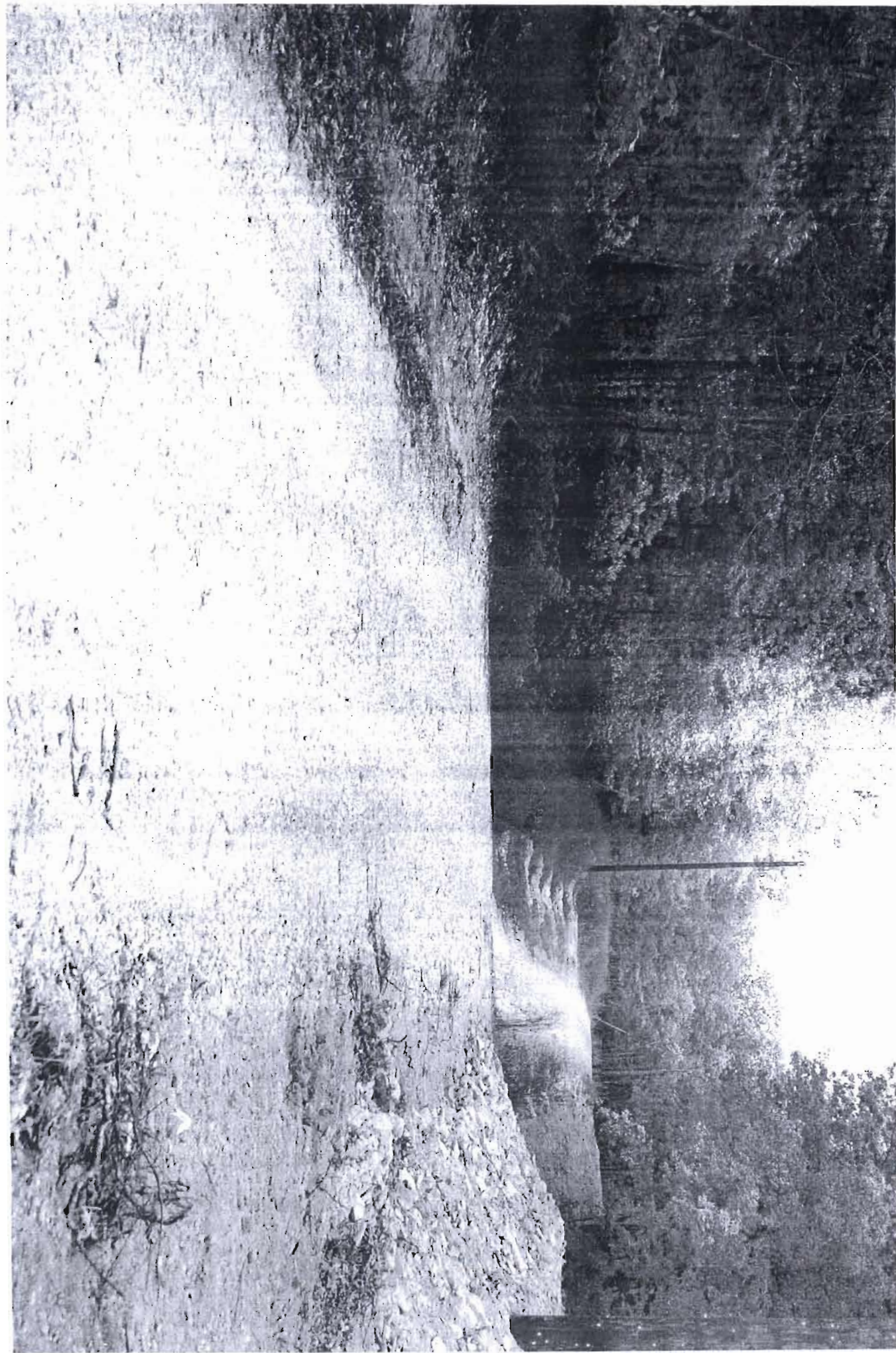














ATTACHMENT 4



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
401 Church Street
L&C Annex 6th Floor
Nashville, TN 37243-1534**

January 9, 2008

Mr. Mark Clark
1406 S.E. 38th Avenue
Ocala, Florida 34471

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #7006 0810 000 1061 7016**

Subject: DIRECTOR'S ORDER NO. WPC07-0258
SPRING LAKE SUBDIVISION
GRUNDY COUNTY, TENNESSEE

Dear Mr. Clark:

Enclosed is a Director's Order and Assessment of Civil Penalty issued by Paul E. Davis, Director of the Division of Water Pollution Control, under the delegation of Commissioner James H. Fyke. The division is in receipt of your correspondence of December 5, 2007, in which you requested an appeal of the provisions of the Notice of Violation issued by the Chattanooga Environmental Field Office. Be advised that the Notice of Violation is not a formal enforcement document and cannot be appealed. This Director's Order and Assessment was originally mailed December 20, 2007, and was returned due an improper street address. This Director's Order and Assessment is being mailed to the address you provided during our conversation of January 9, 2008. Please read the Order carefully and pay special attention to the NOTICE OF RIGHTS section, which contains instruction for the appeal of this Order and Assessment.

It is the Department's position that corporations, limited partnerships, limited liability companies, and other artificial entities created by law must be represented in any legal proceeding resulting from an appeal of this Order and Assessment by an attorney licensed to practice law in the State of Tennessee. Non-attorneys may participate in any such proceedings to the extent allowed by law.

If you or your attorney has questions concerning this correspondence, contact Mark Jordan at (615) 532-0675.

Sincerely,

Vojin Janjic, Manager
Enforcement and Compliance Section

VMJ:MAJ

cc: DWPC – EFO-Chattanooga
DWPC – Compliance File
OGC